

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1585 Session of  
2023

INTRODUCED BY FRANKEL, MADDEN, SANCHEZ, HILL-EVANS, McNEILL,  
GUENST, DELLOSO, TAKAC, KHAN, DONAHUE, BOROWSKI AND GREEN,  
JULY 18, 2023

REFERRED TO COMMITTEE ON HEALTH, JULY 18, 2023

AN ACT

1 Providing for teledentistry; authorizing the regulation of  
2 teledentistry by the board; and providing for insurance  
3 coverage of teledentistry.

4 The General Assembly of the Commonwealth of Pennsylvania  
5 hereby enacts as follows:

6 Section 1. Short title.

7 This act shall be known and may be cited as the Teledentistry  
8 Act.

9 Section 2. Definitions.

10 The following words and phrases when used in this act shall  
11 have the meanings given to them in this section unless the  
12 context clearly indicates otherwise:

13 "Audio-only medium." A prerecorded audio presentation or  
14 recording.

15 "Board." The State Board of Dentistry.

16 "Children's Health Insurance Program." The children's health  
17 insurance program under Article XXIII-A of the act of May 17,  
18 1921 (P.L.682, No.284), known as The Insurance Company Law of

1 1921.

2 "Dental care provider." A dentist, dental hygienist, public  
3 health dental hygiene practitioner or certified school dental  
4 hygienist who holds a valid license under the Dental Law.

5 "Dental insurance policy." An individual or group health  
6 insurance policy, contract or plan that provides coverage for  
7 dental services provided by a dental care provider that is  
8 offered by a health insurer.

9 "Dental Law." The act of May 1, 1933 (P.L.216, No.76), known  
10 as The Dental Law.

11 "Dental services." The general and usual services rendered  
12 and care administered by a person who engages in the practice of  
13 dentistry, as specified in the Dental Law.

14 "Health Information Technology for Economic and Clinical  
15 Health Act." The Health Information Technology for Economic and  
16 Clinical Health Act (Public Law 111-5, 123 Stat. 226-279 and  
17 467-496).

18 "Health Insurance Portability and Accountability Act of  
19 1996." The Health Insurance Portability and Accountability Act  
20 of 1996 (Public Law 104-191, 110 Stat. 1936).

21 "Health insurer." An entity that holds a valid license by  
22 the Insurance Department to issue a dental insurance policy and  
23 is governed under any of the following:

24 (1) The Insurance Company Law of 1921, including section  
25 630 and Article XXIV of that act.

26 (2) The act of December 29, 1972 (P.L.1701, No.364),  
27 known as the Health Maintenance Organization Act.

28 (3) 40 Pa.C.S. Ch. 61 (relating to hospital plan  
29 corporations).

30 (4) 40 Pa.C.S. Ch. 63 (relating to professional health

services plan corporations).

"Interactive audio and video." Real-time two-way or multiple-way communication between a dental care provider and a patient.

"Medical assistance." Medical assistance as provided in subarticle (f) of Article IV of the act of June 13, 1967 (P.L.31, No.21), known as the Human Services Code.

"On-call or cross-coverage services." The provision of teledentistry by a dental care provider designated by another dental care provider with a provider-patient relationship to deliver dental services on a temporary basis so long as the designated dental care provider:

- (1) is in the same group or health system;
- (2) has access to the patient's prior dental records;
- (3) holds a valid license under the Dental Law; and
- (4) is in a position to coordinate care.

"Store-and-forward technology." As follows:

(1) Technology that stores and transmits or grants access to a patient's clinical health information for review by a dental care provider who is at a different location.

(2) The term does not include the storage, transmission or use of electronic dental records without the concurrent transmission of additional clinical health information not already present in the electronic dental records.

"Teledentistry." The delivery of dental care services provided through teledentistry technologies to a patient by a dental care provider who is at a different location.

"Teledentistry technologies." As follows:

- (1) Electronic information and telecommunications technology, including interactive audio and video, remote

1 patient monitoring or store-and-forward technology, that  
2 meets the requirements of the following:

3 (i) The Health Insurance Portability and  
4 Accountability Act of 1996.

5 (ii) The Health Information Technology for Economic  
6 and Clinical Health Act.

7 (iii) Other applicable Federal or State law.

8 (2) The term does not include the use of:

9 (i) Audio-only medium, voicemail, facsimile, email,  
10 instant messaging, text messaging or online questionnaire  
11 or any combination thereof.

12 (ii) A telephone call, except as provided under  
13 section 5(a)(3).

14 Section 3. Regulation of teledentistry by board.

15 (a) Requirements.--

16 (1) A dental care provider shall be authorized to  
17 practice teledentistry in accordance with this act and the  
18 corresponding regulations promulgated by the board.

19 (2) A dental care provider who engages in teledentistry  
20 in a manner that does not comply with the standards of care  
21 or rules of practice shall be subject to discipline by the  
22 board under the Dental Law.

23 (b) Regulations.--Within 24 months of the effective date of  
24 this subsection, the board shall promulgate final regulations  
25 that are consistent with this act to provide for and regulate  
26 teledentistry within the scope of practice and standard of care  
27 regulated by the board. The following apply:

28 (1) The standard of care applicable to an in-person  
29 encounter shall apply to a teledentistry encounter.

30 (2) The regulations shall:

1           (i) Consider model policies and clinical guidelines  
2           for the appropriate use of teledentistry technologies,  
3           including care coordination, preventive care and  
4           emergency care.

5           (ii) Include patient privacy and data security  
6           standards that are in compliance with:

7                   (A) The Health Insurance Portability and  
8                   Accountability Act of 1996.

9                   (B) The Health Information Technology for  
10                  Economic and Clinical Health Act.

11                  (C) Other applicable Federal or State law.

12       (c) Temporary regulations.--To facilitate the prompt  
13       implementation of this act, within 120 days of the effective  
14       date of this subsection, the board shall transmit notice of  
15       temporary regulations regarding implementation of this act to  
16       the Legislative Reference Bureau for publication in the next  
17       available issue of the Pennsylvania Bulletin. The following  
18       apply:

19           (1) The temporary regulations shall not be subject to:

20                   (i) Section 612 of the act of April 9, 1929  
21                   (P.L.177, No.175), known as The Administrative Code of  
22                   1929.

23                   (ii) Sections 201, 202, 203, 204 and 205 of the act  
24                   of July 31, 1968 (P.L.769, No.240), referred to as the  
25                   Commonwealth Documents Law.

26                   (iii) Sections 204(b) and 301(10) of the act of  
27                   October 15, 1980 (P.L.950, No.164), known as the  
28                   Commonwealth Attorneys Act.

29                   (iv) The act of June 25, 1982 (P.L.633, No.181),  
30                   known as the Regulatory Review Act.

1           (2) The temporary regulations shall expire no later than  
2       24 months following publication of temporary regulations.  
3       Regulations adopted after this period shall be promulgated as  
4       provided by law.

5       (d) Construction.--The provisions of this act shall be in  
6       full force and effect even if the board has not yet published  
7       temporary regulations or implemented the regulations required  
8       under this section.

9       Section 4. Compliance.

10       A dental care provider providing teledentistry services to an  
11       individual located within this Commonwealth shall comply with  
12       all applicable Federal and State laws and regulations and shall  
13       hold a valid license by the board. Failure to hold a valid  
14       license shall subject the dental care provider to discipline by  
15       the board for unlicensed practice under the Dental Law.

16       Section 5. Evaluation and treatment.

17       (a) Requirements.--Except as provided under subsection (c),  
18       a dental care provider who provides teledentistry to an  
19       individual located in this Commonwealth shall:

20           (1) Except as provided in subsection (b), for a  
21       teledentistry encounter in which the dental care provider  
22       does not have an established provider-patient relationship:

23           (i) verify the location and identity of the  
24       individual receiving dental care; and

25           (ii) disclose the dental care provider's identity,  
26       geographic location, license number and dental specialty  
27       or applicable credentials.

28       (2) Obtain informed consent regarding the use of  
29       teledentistry technologies from the individual or other  
30       person acting in a dental care decision-making capacity for

1 the individual. The individual or other person acting in a  
2 dental care decision-making capacity, including the parent or  
3 legal guardian of a child in accordance with the act of  
4 February 13, 1970 (P.L.19, No.10), entitled "An act enabling  
5 certain minors to consent to medical, dental and health  
6 services, declaring consent unnecessary under certain  
7 circumstances," has the right to choose the form of service  
8 delivery, which includes the right to refuse teledentistry  
9 services without jeopardizing the individual's access to  
10 other available services.

11 (3) Provide an appropriate problem-focused examination  
12 or assessment using teledentistry technologies. The following  
13 apply:

14 (i) The dental care provider may utilize interactive  
15 audio without the requirement of interactive video if it  
16 is used in conjunction with store-and-forward technology  
17 and, after access and review of the patient's medical  
18 records, the dental care provider determines that the  
19 dental care provider is able to meet the appropriate  
20 standard of care.

21 (ii) If the dental care provider utilizes  
22 interactive audio without interactive video, the dental  
23 care provider shall inform the patient that the patient  
24 has the option to request interactive audio and video.

25 (4) Establish a diagnosis and treatment plan or execute  
26 a treatment plan, including care coordination or referrals,  
27 unless inconsistent with the standard of care.

28 (5) Create and maintain an electronic dental record or  
29 update an existing electronic dental record for the patient  
30 within 24 hours. An electronic dental record shall be

1 maintained in accordance with electronic medical records  
2 privacy rules under the Health Insurance Portability and  
3 Accountability Act of 1996 and other applicable Federal or  
4 State laws.

5 (6) Provide a visit summary to the individual if  
6 requested.

7 (7) Have an emergency action plan in place for dental  
8 emergencies and referrals or care coordination.

9 (b) Applicability.--Subsection (a)(1) shall not apply to on-  
10 call or cross-coverage services.

11 (c) Limitations on treatment.--Teledentistry services or  
12 teledentistry technologies shall not be permitted to be utilized  
13 or employed for the delivery or administration of dental care  
14 services that are required to be delivered or administered in a  
15 dentist's office.

16 Section 6. Insurance coverage of teledentistry.

17 (a) Insurance coverage and reimbursement.--

18 (1) A dental insurance policy issued, delivered,  
19 executed or renewed in this Commonwealth after the effective  
20 date of this section shall provide coverage for medically  
21 necessary and preventive teledentistry delivered by a dental  
22 care provider who provides a covered service via  
23 teledentistry consistent with the health insurer's dental  
24 policies. A dental insurance policy may not exclude a dental  
25 care service for coverage solely because the service is  
26 provided through teledentistry.

27 (2) Subject to paragraph (1), a health insurer shall  
28 reimburse a dental care provider for both in-person and  
29 teledentistry services in accordance with the terms and  
30 conditions of the participation agreement as negotiated



1 between the health insurer and the dental care provider. The  
2 following apply:

3 (i) The form of the participation agreement shall be  
4 filed with and subject to review by the Department of  
5 Health.

6 (ii) The participation agreement may not prohibit  
7 reimbursement solely because a dental service is provided  
8 by teledentistry.

9 (iii) Reimbursement shall not be conditioned upon  
10 the use of an exclusive teledentistry platform or  
11 teledentistry vendor.

12 (3) Payment for a covered service provided via  
13 teledentistry by a dental care provider shall be negotiated  
14 between the dental care provider and health insurer.

15 (b) Applicability.--This section shall apply as follows:

16 (1) Subsection (a)(1) and (2) shall not apply if the  
17 teledentistry service is facilitated via a dental device or  
18 other technology that provides clinical data or health  
19 information, excluding existing information in an electronic  
20 dental records system, other than that independently provided  
21 through interactive audio and video with, or store-and-  
22 forward technology imaging provided by, the patient.

23 (2) For a dental insurance policy for which either rates  
24 or forms are required to be filed with the Federal Government  
25 or the Insurance Department, this section shall apply to a  
26 policy for which a form or rate is first filed on or after  
27 180 days after the effective date of this section.

28 (3) For a dental insurance policy for which neither  
29 rates nor forms are required to be filed with the Federal  
30 Government or the Insurance Department, this section shall

1 apply to a policy issued or renewed on or after 180 days  
2 after the effective date of this section.

3 (c) Construction.--Nothing under this section shall be  
4 construed to:

5 (1) Prohibit a health insurer from reimbursing other  
6 dental providers for covered services provided via  
7 teledentistry.

8 (2) Require a health insurer to reimburse an out-of-  
9 network dental care provider for teledentistry.

10 Section 7. Medical assistance program reimbursement.

11 (a) Medical assistance payment.--Medical assistance payments  
12 shall be made on behalf of eligible individuals for  
13 teledentistry, consistent with Federal law, as specified under  
14 this act, if the service would be covered through an in-person  
15 encounter.

16 (b) Applicability.--

17 (1) To perform teledentistry services, a dental care  
18 provider must use technology platforms that are compliant  
19 with the Health Insurance Portability and Accountability Act  
20 of 1996.

21 (2) Teledentistry services must be consistent with the  
22 standard of care.

23 Section 8. Children's Health Insurance Program reimbursement.

24 (a) Children's Health Insurance Program payment.--Children's  
25 Health Insurance Program payments shall be made on behalf of  
26 eligible individuals for teledentistry, consistent with Federal  
27 law, as specified under this act if the service would be covered  
28 through an in-person encounter.

29 (b) Applicability.--

30 (1) To perform teledentistry services, a dental care

1 provider must use technology platforms that are compliant  
2 with the Health Insurance Portability and Accountability Act  
3 of 1996.

4 (2) Teledentistry services must be consistent with the  
5 standard of care.

6 Section 9. Effective date.

7 This act shall take effect as follows:

8 (1) Section 6 shall take effect upon publication in the  
9 Pennsylvania Bulletin of the temporary regulations required  
10 in section 3(c).

11 (2) Section 7 shall take effect in 90 days.

12 (3) The remainder of this act shall take effect  
13 immediately.